IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.320 of 1999

Between:

V.Venugopal, S/o.Keshav Rao.

...PETITIONER

AND

1. Govt. of A.P. rep.by its Prl.Secretary,
   Revenue Department, Secretariat,
   Hyderabad.
2. The Commissioner of Land Revenue,

Government of A.P., Station Road,

Nampally, Hyderabad.
3. The District Collector,
   Nellore District, Nellore.
4. The Mandal Revenue Officer,

Kodavalauru (M),
Nellore District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in seeking to dispossess the petitioner for an extent of Acs.15.02 cents of dry land in survey Nos. 809/7, 812/2, 812/3, 812/4, 812/5, 812/6, 813/2, 813/3, 813/4, 813/5 and 813/6 of Gopalnagar, Regadichilaka Village, Hamlet of Talamanchi, Kodavaluru (M), Nellore District for the purpose of allotting the same to IFFCO company with out initiating the

proceedings either under the Land Acquisition Act or under G.O.Ms.No.1307 dt.29-12-1993 and without paying the compensation to the petitioner and further declare that the action of the 4th respondent in initiating proceedings under the provisions of A.P. Assigned Lands(Prohibition of Transfer)Act,1977 as illegal, arbitrary , without jurisdiction and violative of art 14,19(1)(g),,and 300-A of the Constitution of India and consequently direct the respondents to either to initiate proceedings under the Land Acquisition act and pay compensation for the said lands or in the alternative to pay compensation in terms of G.O.Ms.No.107 dt.29-12-1993.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following:

ORDER:

The Government of Andhra Pradesh acquired huge extent of agricultural lands for establishing SHAR project. To give additional benefit to the owners of the lands, the Government issued orders in G.O.Ms.No.1024, dated 02.11.1970 under which each of the land owners were assigned Acs.5.00 of land elsewhere. The petitioner herein allegedly purchased an extent of Acs.15.02 cents in Survey Nos. 809/7, 812/2, 812/3, 812/4, 812/5, 812/6, 813/2, 813/3, 813/4, 813/5 and 813/6 of Gopalnagar, Regadichilaka Village, Hamlet of Talamanchi, Kodavaluru (M), Nellore District under registered sale deeds dated 04.01.1984, 30.12.1983 and 08.02.1984. In the year 1995, the petitioner filed a Writ Petition being W.P.No.22631 of 1995 alleging that the Mandal Revenue Officer (for short 'the MRO') is contemplating to take the land for alienation in favour of IFFCO for establishment of ammonia, urea fertilizer factory. This Court disposed of the Writ Petition by an order, dated 20.09.1996 directing the officials not to interfere with the possession, except in accordance with due process of law.

It appears that the MRO initiated action under the provisions of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 ('the Act' for brevity) against the petitioner and

also issued show cause notice dated 06.02.1997 alleging that he purchased the property in possession in contravention of the provisions of the Act. The petitioner submitted explanation. The petitioner alleges that no orders were passed by the Tahsildar, but he came to know that the MRO recorded proceedings as if the possession is taken from the petitioner and handed over to IFFCO. Therefore, he filed the present Writ Petition seeking a Writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioner from possession of the land and allot to IFFCO as illegal and arbitrary.

A lengthy counter-affidavit is filed. It is stated that the MRO issued a show cause notice, dated 06.02.1997 proposing to evict the petitioner and as the petitioner allegedly violated the provisions of the Act, after considering the explanation, the MRO passed orders dated 25.02.1997 for eviction and resumption of the land and accordingly the land is resumed, as the petitioner purchased the assigned land in contravention of the conditions of assignment and other provisions of the Act.

Sri P.Sridhar Reddy, learned counsel submits that as the Government allotted land to displaced persons/land oustees, the condition of inalienability has no application. Therefore, the sale by the petitioner is valid. He also submits that in related cases, when this Court remanded the matters to the Government for considering the same, the Government issued memo No.97344/Asn.II(3)/92-11, dated 16.09.2000, clarifying the position with regard to condition of inalienability, and that does not apply to the assignments made to the land oustees/displaced persons in connection with the acquisition for SHAR. A copy of the said memo is also placed before this Court to contend that the orders passed by the MRO alleging resumption of the land are unsustainable.

Learned counsel for the petitioner disputes the counter averments that a copy of the proceedings dated 27.06.1996 ordering eviction of the petitioner is served on him. He however does not dispute that an appeal would lie under Section 4A of the Act against the order of the eviction passed under Section 4 of the Act by the MRO. Therefore, without expressing any opinion as to whether the petitioners/vendors were prohibited from alienating the land as a condition of assignment, liberty is given to the petitioner to file appeal within two (2) weeks from the date of receipt of a copy of this order. It is open to the petitioner to raise all the grounds and also place a copy of the memo, dated 16.09.2000 before the jurisdiction of the Revenue Divisional Officer. As and when appeal is filed, he shall dispose of the same within a period of eight (8) weeks thereafter. There is a dispute as to possession. The petitioner contends that as the project for establishment of ammonia urea fertilizer plant by IFFCO was shelved, the petitioner continues to be in possession. This is however disputed by the learned Assistant Government Pleader. Therefore, no opinion can be expressed on this question. In so far as possession of land is concerned, there shall be *status quo* as on today.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

21st July 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copies To:

1. The Principal Secretary, Govt. of A.P., Revenue Department,
Secretariat, Hyderabad.
2. The Commissioner of Land Revenue,

Government of A.P., Station Road,

Nampally, Hyderabad.
3. The District Collector,
Nellore District, Nellore.
4. The Mandal Revenue Officer,

Kodavalauru (M),
Nellore District.

5. Two CCs to G.P. for Assignment.

6. Two CD copies.